

**REMARKS**

This Amendment, submitted in response to the Office Action dated January 8, 2007, is believed to be fully responsive to each point of rejection raised therein. Accordingly, favorable reconsideration on the merits is respectfully requested.

Claims 1-14 are all the claims pending in the application. Applicant has amended claims 1-12 to better conform with USPTO practice and procedure. Applicant submits that no new matter has been added.

**I. Preliminary Matter**

Applicant notes that the Examiner has not acknowledge receipt of the priority document filed on November 25, 2003. Therefore, Applicant requests that the Examiner acknowledge receipt of the priority document in the next Office Action.

**II. Claim Rejections under 35 U.S.C. § 102**

Claims 1-12 stand rejected under 35 U.S.C. § 102(e)<sup>1</sup> as being anticipated by Arecco et al. (U.S. Patent No. 7,072,580; hereinafter “Arecco”).

Claim 1 recites “subjecting the TDM traffic to said protection mechanism, and shifting the TDM traffic over the protection capacity.” The Examiner asserts that Fig. 3, col. 15, lines 3-8, and col. 23, lines 21-23, of Arecco teaches this aspect of the claim. The respective column and lines cited by the Examiner discloses that a TDM frame structure including the signal channels together with an extra channel can be used for link signaling. Further, Arecco discloses that link terminating nodes not previously affected by a failure are informed of the release of a

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<sup>1</sup> Applicant notes that Arecco qualifies as prior art under 35 U.S.C. § 102(e) and not under 35 U.S.C. § 102(b) as stated by the Examiner.

shared protection capacity by checking the status of the channel carried by the protection wavelengths.

However, there is no teaching or suggestion of subjecting TDM traffic to a protection mechanism, let alone shifting the TDM traffic over the protection capacity.

Claim 1 also recites “a part of low-priority data traffic, transported over the protection capacity in normal conditions, shares a remaining protection capacity with the low-priority part of the data traffic, transported over the working capacity in normal conditions, wherein the complete protection capacity is used to carry data traffic in both normal and failure conditions.”

The Examiner asserts that col. 2, lines 26-34 and the abstract of Arecco teaches these elements of the claim. The aspects of Arecco cited by the Examiner discloses that a working fiber ring is used to carry all the optical channels between nodes, while a protection fiber ring is empty under normal operation conditions. Therefore, contrary to the Examiner’s assertions, there is no data transmitted over the protection fiber ring of Arecco during normal conditions. Therefore, Arecco does not teach or suggest that a part of low-priority data traffic is transported over the protection capacity in normal conditions, as claimed.

Further, there is no teaching or suggestion that a part of a low priority data traffic transported over a protection capacity shares a remaining protection capacity with a low-priority part of the data traffic transported over the working capacity. Specifically, there is no teaching or suggestion in Arecco of a protection capacity being shared between low priority data traffic transported over the protection capacity and low priority data traffic transported over the working capacity.

Contrary to the Applicant's invention, Arecco, see for example, col. 21, lines 49-66,  
discloses:

As a consequence of a failure on the generic working link operating at the working wavelengths  $\lambda_{x,w}$ ,  $\lambda_{y,w}$  the two nodes terminating the working link detect the failure condition (in the way hereinbelow described) and run the reconfiguration process by switching the transmission on the respective protection arc path using the protection wavelengths  $\lambda_{x,p}$ ,  $\lambda_{y,p}$ . In practice, signals previously transmitted at the first working wavelength  $\lambda_{y,w}$  on the external ring 2 are switched at the first protection wavelength  $\lambda_{x,p}$  on the internal ring 3, while signals previously transmitted at the second working wavelength  $\lambda_{y,w}$  on the internal ring 3 are switched, at the second protection wavelength  $\lambda_{y,p}$  on the external ring 2.

The working link between the two nodes is consequently re-routed on the respective protection path by using the protection wavelengths  $\lambda_{x,p}$ ,  $\lambda_{y,p}$ , if necessary through nodes which are terminating other working links on the same logical ring.

Therefore, Arecco merely discloses transmitting signals from the working link to the protection path. There is no teaching or suggestion of a part of low-priority data traffic, transported over the protection capacity in normal conditions, sharing a remaining protection capacity with the low-priority part of the data traffic, transported over the working capacity in normal conditions.

Further, there is no teaching or suggestion that the complete protection capacity is used to carry data traffic in both normal and failure conditions, as explicitly recited in claim 1.

In view of the foregoing, Applicant submits that Arecco does not teach or suggest each and every element of claim 1. Consequently, Arecco does not anticipate claim 1, therefore, claim 1 and its dependent claims should be deemed allowable. To the extent claim 13 recites

similar elements, claim 13 and its dependent claims should be deemed allowable for at least the same reasons.

### III. New Claims

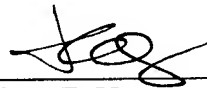
Applicant has added claims 13 and 14 to provide a more varied scope of protection. Claim 13 recites subject matter similar to claim 1 and should be deemed allowable for at least the same reasons. Claim 14 should be deemed allowable by virtue of its dependency to claim 14. Moreover, the art cited by the Examiner does not teach the elements of claims 13 and 14.

### IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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